



DEPARTMENT OF COMMERCE
Bureau of Industry and Security

In the Matter of:)
)
Ming Xie)
a/k/a Michael Xie)
16 Nathan Drive)
Towaco, New Jersey 07082)
)
Respondent.)
)
Horizon RX Systems)
16 Nathan Drive)
Towaco, New Jersey 07082)
)
Related Person.)

Order Denying Export Privileges

A. Denial of Export Privileges of Ming Xie a/k/a Michael Xie

On May 22, 2013, in the U.S. District Court for the District of New Jersey, Ming Xie, a/k/a Michael Xie (“Xie”), was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (“AECA”) and the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)) (“IEEPA”). Specifically, Xie knowingly and willfully exported and caused to be exported from the United States power amplifiers, defense articles of United States origin, without first obtaining from the U.S. Department of State a license or other export authorization for such export, in violation of the AECA. Xie also knowingly and willfully exported from the United States to the People’s Republic of China power amplifiers, items subject to the Export Administration Regulations, without first obtaining the required export license or other authorization from the U.S. Department of Commerce, in violation of IEEPA. Xie

was sentenced to probation for two years, 300 hours of community service, and a \$20,000 fine. Xie also is listed on the U.S. Department of State's Debarred List.

Section 766.25 of the Export Administration Regulations ("EAR" or "Regulations")¹ provides, in pertinent part, that "[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA, the EAR, of any order, license or authorization issued thereunder; any regulation, license, or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701-1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778)." 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to ten (10) years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security ("BIS") licenses previously issued in which the person had an interest in at the time of his conviction.

¹ The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2014). The Regulations are issued pursuant to the Export Administration Act of 1979 (50 U.S.C. app. §§ 2401-2420 (2000)) ("the EAA" or "the Act"). Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 7, 2014 (79 Fed. Reg. 46959 (August 11, 2014)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2006 & Supp. IV 2010)).

BIS received notice of Xie's conviction for violating the AECA and IEEPA, and has provided notice and an opportunity for Xie to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS received a submission from Xie. Based upon my review and consideration of that submission, and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Xie's export privileges under the Regulations for a period of ten (10) years from the date of Xie's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Xie had an interest at the time of his conviction.

B. Denial of Export Privileges of Related Person Horizon RX Systems

Pursuant to Sections 766.25(h) and 766.23 of the Regulations, the Director of BIS's Office of Exporter Services, in consultation with the Director of BIS's Office of Export Enforcement, may, in order to prevent evasion of a denial order, make a denial order applicable not only to the respondent, but also to other persons related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business.

As provided in Section 766.23 of the Regulations, BIS gave notice to Horizon that its export privileges under the Regulations could be denied for up to ten (10) years due to its relationship with Xie and that BIS believed that naming Horizon as a person related to Xie would be necessary to prevent evasion of a denial order imposed against Xie. In providing such notice, BIS gave Horizon an opportunity to oppose its addition to the Xie Denial Order as a related party.

Having received and reviewed a submission from Xie, I have decided, following consideration of that submission and consultations with BIS's Office of Export Enforcement, including its Director, to include name Horizon as a Related Person and make this Denial Order applicable to Horizon, thereby denying its export privileges for ten (10) years from the date of Xie's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Horizon had an interest at the time of Xie's conviction. The 10-year denial period is scheduled to end on May 22, 2023.

Xie is the president of Horizon. Therefore, Horizon is related to Xie within the meaning of Section 766.23. BIS also has reason to believe that Horizon should be added as a related person in order to prevent evasion of this Denial Order. Xie conducted the unlawful export activities involved in his conviction through Horizon.

Accordingly, it is hereby **ORDERED**:

First, from the date of this Order until May 22, 2023, Ming Xie a/k/a Michael Xie, with a last known address of 16 Nathan Drive, Towaco, New Jersey 07082, and when acting for or on his behalf, his successors, assigns, employees, agents, or representatives, and Horizon RX Systems, with a last known address of 16 Nathan Drive, Towaco, New Jersey 07082, and when acting for or on its behalf, its successors, assigns, directors, officers, employees, agents, or representatives (each as "Denied Person" and collectively the "Denied Persons") may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to

the Regulations, or in any other activity subject to the Regulations, including but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or
- C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

- A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations;
- B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

- C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the Regulations that has been exported from the United States;
- D. Obtain from a Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
- E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person, if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, in addition to the Related Person named above, after notice and opportunity for comment as provided in section 766.23 of the Regulations, any other individual, firm, corporation, or other association or organization or other person related to a Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order if necessary to prevent evasion of this Order.

Fourth, in accordance with Part 756 and Section 766.25(g) of the Regulations, Xie may file an appeal of the issuance of this Order against him with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the

date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, in accordance with Part 756 and Section 766.23(c) of the Regulations, Horizon RX Systems may file an appeal of its naming as a related person in this Order with the Under Secretary of Commerce for Industry and Security. This appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Sixth, Xie shall have an opportunity to request reinstatement of his export privileges in whole or part by seeking termination or modification, as applicable, of this Order, provided that Xie has first been removed from the U.S. Department of State's Debarred List, and provided that Xie has committed no violation of the Act, or any regulation, order, or license issued thereunder prior to the submission of his request for reinstatement. BIS shall in its sole unreviewable discretion determine whether to grant or deny, in whole or in part, such a request for reinstatement of Xie's export privileges. If BIS reinstates Xie's export privileges in whole or in part under the Denial Order, Horizon's export privileges shall be reinstated to the same extent, provided that it has remained named to the Denial Order as a related person, rather than as a respondent, and otherwise has committed no violation of the Act, or any regulation, order, or license issued thereunder.

Seventh, a copy of this Order shall be provided to Ming Xie and Horizon RX Systems and shall be published in the *Federal Register*.

Eighth, this Order is effectively immediately and shall remain in effect until May 22, 2023.

Issued this _30_ day of September, 2014.

Karen H. Nies-Vogel,
Acting Director,
Office of Exporter Services.

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